

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Speier Analyst: Marion Mann DeJong Bill Number: SB 1691
Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 02/22/2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Provided Domestic Violence Awareness Program Credit/Allows Credit to Reduce Tax Below Tentative Minimum Tax

SUMMARY

Under the Bank and Corporation Tax Law (B&CTL), this bill would create a credit equal to 75% of the costs paid or incurred in establishing and maintaining a domestic violence awareness program.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately and would apply to income years beginning on or after January 1, 2000.

SPECIFIC FINDINGS

Existing state and federal laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's business.

Existing state and federal laws provide various tax credits that are designed to provide tax relief for taxpayers who must incur certain expenses (e.g., renter's credit) or to influence behavior, including business practices and decisions (e.g., research credits).

Under the B&CTL **this bill** would create a credit equal to 75% of the costs paid or incurred in establishing and maintaining a domestic violence awareness program.

A "domestic violence awareness program" would include, but not be limited to, any of the following:

- Ⓟ Providing ongoing training to managers to recognize signs of domestic abuse in their workforce and to offer nonjudgmental assistance in contacting appropriate community resources.
- Ⓟ Providing documented and ongoing training to employees on the effects of domestic violence and providing a resource for employees facing domestic violence.
- Ⓟ Providing leave policies that recognize and address the needs of victims of domestic violence.
- Ⓟ Providing security for employees and establishing security protocols for employees facing a threat from a domestic partner.
- Ⓟ Providing regular communications on resources available to victims of domestic violence.

"Allowable cost" would include all appropriate costs associated with providing

Board Position:

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Department Director

Date

Alan Hunter for GHG

3/30/00

the services described above, including the cost of employee time off to participate in training.

Any credit amount in excess of tax could be carried forward indefinitely. The bill specifies that this credit would be allowed to reduce regular tax below tentative minimum tax.

Policy Considerations

This bill would raise the following policy considerations.

- Ⓟ This bill would provide a tax benefit for taxpayers filing under the B&CTL (corporations) that would not be provided to other similarly situated taxpayers that file under the Personal Income Tax Law (individuals, sole proprietors, partners, and shareholders). Thus, this bill would provide differing treatment to businesses based solely on entity classification.
- Ⓟ Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of an expense deduction. This new credit would have the effect of providing a double benefit for that expense item. On the other hand, making an adjustment to deductions in order to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time expense deduction, the reduction of that expense would not create an ongoing difference.
- Ⓟ This bill would provide a credit for 75% of costs that are currently deductible for tax purposes. This credit combined with the deduction of the expenses for federal and state tax purposes would provide tax incentives for more than 100% of the taxpayer's costs.
- Ⓟ The credit would be allowed regardless of whether the costs for the domestic violence awareness program are incurred inside or outside California.
- Ⓟ This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, if an unlimited credit carryover is allowed, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

It may be difficult for audit staff to verify the expenses allowable for the credit. In addition, because the definition of domestic violence awareness program is very broad, taxpayers and department staff may disagree on whether expenses would qualify for the credit. For example, corporations with a large security force could claim that they are entitled to a credit for 75% of the cost of the security force.

Technical Consideration

Amendment 1 would delete two unnecessary and repeated words.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact Bank and Corporation Tax Law Income Years Beginning On or After January 1, 2000 Enactment Assumed After June 30, 2000 Fiscal Years (In Millions)		
2000-01	2001-02	2002-03
-\$18	-\$25	-\$27

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The projected revenue losses were derived using various information sources including WEAVE, the Bureau of Labor Statistics (BLS) data on similar employee benefits, the Blue Shield Domestic Violence Program, and the University of Illinois' evaluation of a domestic violence prevention program. Experts in the California domestic violence prevention programs believe this bill could provide a significant impetus for expansion of domestic violence programs. The number of training classes, leave time, etc., used in this analysis are assumed to be largely attributed to the incentive effect of this proposal. (The large incentive effect stems from the fact that the large credit, combined with state and federal deductibility of the expense, could cover more than 100% of the expense.)

The main components of this revenue projection are for domestic violence training for employees and for leave time provided under a leave policy addressing the needs of domestic violence victims. The associated revenue loss was computed as follows:

1. Training. Based on BLS data, it is assumed that 30% of the total 7 million corporate employees working for profitable firms would receive domestic violence training over a three-year period, with training continuing proportionately in later years. Based on

conversations with the head of the Blue Shield Domestic Violence Program and a member of the statewide leadership team on domestic violence, 30% of eligible employees would receive training from commercial trainers and the remaining 70% would receive training from volunteers recently trained to provide domestic violence training statewide. The appropriate costs for both types of training were applied to each section of the universe, total cost of \$13 million, and multiplied by the proposed 75% tax credit. It is assumed that 80% of the credit would be applied in the year generated, with the remaining 20% applied in the following income year. **The total projected training portion of the credit for 2000 is approximately \$8 million.**

2. Employee leave. Although the bill does not require that paid leave be provided, taxpayers would be allowed a credit for allowing victims of domestic violence to take paid leave under a leave policy that recognizes victims' needs. So women who would take sick leave because of domestic violence would qualify the taxpayer for the credit. To estimate the revenue impact, it was assumed that 25% of the 3.5 million corporate women employees would experience domestic violence (during their lifetime) and receive paid leave for domestic violence issues. This assumption was based on information from the sources listed above. It was projected that 50% of the domestic violence cases in which paid leave is allowed would not be reported to employers as related to domestic violence, in part because of the stigma attached to domestic violence, thus the taxpayer would not be aware that the leave time would qualify for the credit. The average time off work per domestic violence incidence is three days and an average wage of \$15 per hour was used. It is assumed that employers would incur 10% of these expenses each year, for a total projected cost for paid leave associated with domestic violence of approximately \$16 million. It was assumed that 70% of the available credit would be applied in the year generated and the remaining 30% would be applied in the following year. **The total projected leave time portion of the credit for 2000 is approximately \$8 million.** A growth rate of 7% per year was applied to subsequent years.

3. Security. Estimated costs related to employer provided security relating to domestic violence also were included in this projection. However, it was projected that these costs would not have a material impact on the projected revenue losses. It was assumed that an employer could not claim the credit for an existing security force.

Since the bill does not require that that the credit be in-lieu of any associated deductions, no offset of foregone deductions was made. The estimate is larger in the first year to account for taxpayers that would reduce estimated tax payments over the first half of fiscal year. A higher credit utilization rate (80%) was used for the training portion of the credit than was used for the leave portion (70%) because it was assumed that larger firms were more likely to implement training programs while victims of domestic violence were more likely to report domestic violence as the reason for taking leave time in small sized firms. Further, if firms report training credits, less tax would be available for leave payments.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 1691
As Introduced February 22, 2000

AMENDMENT 1

On page 5, line 36, strikeout "the during".